REMARKS

[01] NON-STATUTORY SUBJECT MATTER

[02]   Items 4-5 of the Office Action reject Claims 6 and 8-10 for relating to non-statutory subject matter. These claims have been amended to make it clearer that they *do* relate to statutory subject matter. In particular, these claims relate to a computer-readable medium encoded with a program (or set of programs), which qualifies as a "computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized." Accordingly, the rejections for non-statutory subject matter should be withdrawn as to the amended claims.

[03] OBVIOUSNESS

[04]   Items 6 and 7 reject all pending claims as obvious given Smith in view of Jong. These rejections are traversed as to all claims.

[05]   All claims require "said update site presenting to a user a list". Neither Smith nor Jong discloses presenting a user with a list. Accordingly, no combination of Smith and Jong can meet this claim limitation. The Office Action of 2008-Apr-30 purports to find this limitation met at Smith, column 4, lines 57-67 and at Smith, column 5, lines 1-12. However, neither of these passages mentions a list, let alone presenting a list to a user. Since the Office Action fails to establish that the proposed combination of Smith and Jong would meet the claim limitation of presenting a user with a list, the rejection of Claim 1 for obviousness should be withdrawn.

[06]   The arguments for rejection fail to establish that the cited references disclose the claimed application. For example, all claims
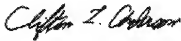
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require an application.   The Office Action relies on Smith, Fig. 2, blocks 200-206 and Smith, column 7, lines 22-41 for disclosure of this limitation. However, the cited figure and the cited passage both fail to disclose an application. In fact, the cited references disclose several applications, but it is not clear from the Office Action which are to be mapped to the claimed application. This is an important issue since an update for one application is not necessarily an update for another application. Applicants thus respectfully requests that the Examiner specify what element(s) in the cited references correspond(s) to the claimed application.

[07]   As the Office Action maintains, Smith describes tracking a user's access of Internet sites, but does not disclose that these sites include update sites. Jong also does not disclose a user that accesses update sites. Therefore, neither reference discloses a usage pattern that would cause Smith to pre-cache an update site. Thus, Jong does not teach modifying Smith so that the contents that are pre-cached would include an update. In fact, Jong teaches away from this limitation as Jong's downloading appears to be automated, not user driven. Therefore, the proposed combination of Smith and Jong would not meet the limitations of any of the outstanding claims. Accordingly, all rejections for obviousness should be withdrawn.

[08] CONCLUSION

[09]   The foregoing amendments should make it clear that the claims relate to statutory subject matter, so the rejections for non-statutory subject matter should be withdrawn. For several reasons, notably that neither reference discloses the claim limitation of presenting a list to a user, all rejections for obviousness should be withdrawn. Accordingly, it is respectfully submitted that the present application is in condition for allowance, which allowance is respectfully requested.

Respectfully submitted

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